



STATE OF ARIZONA

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May 2, 2006

The Honorable Jim Weiers
Speaker of the House
Arizona House of Representatives
1700 West Washington
Phoenix, Arizona 85007

Re: House Bill 2315: burden of proof; emergency treatment

Dear Speaker Weiers:

Today I vetoed House Bill 2315, which would have increased the burden of proof necessary to establish a malpractice action against health professionals who provide services or consultation in compliance with the federal Emergency Medical Treatment and Active Labor Act.


There is no disagreement that the unfunded federal mandates of EMTALA, coupled with the decrease in reimbursement rates and the rise of specialty surgery centers, have led to shortages of on-call specialists in our emergency rooms. No data has been supplied to me, however, to suggest that raising the burden of proof would, alone, cure these problems. I also am troubled that the bill as presented may violate the Arizona Constitution; indeed, five former justices of the Arizona Supreme Court (Republican and Democrat alike) have written to me expressing concern over the bill's constitutionality.

I have already issued an executive order creating a task force to more thoroughly explore what can be done to assist our hospitals and emergency rooms. I have not asked the members of this task force to study whether there is a problem with access to emergency care in Arizona (there is), but, rather, what combination of actions would most effectively address this problem. While I have given them a December 1, 2006 deadline, I will also urge them to proceed as quickly as possible. I am committed to working with the medical community and the bill's sponsor to address our ER needs.

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For these and other reasons, I have vetoed House Bill 2315.

Yours very truly,



Janet Napolitano
Governor

JN/jm

cc: The Honorable Ken Bennett
The Honorable Ray Barnes